

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES RAMSEY,

Plaintiff,

v.

CITY OF RANCHO CORDOVA, et al.,

Defendants.

No. 2:23-cv-02178-DAD-DB

ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS

(Doc. No. 7)

This matter is before the court on defendants' motion to dismiss filed on October 24, 2023. (Doc. No. 7.) On November 11, 2023, defendants' motion was taken under submission on the papers pursuant to Local Rule 230(g). (Doc. No. 10.) For the reasons explained below, defendants' motion to dismiss will be granted, and plaintiff will be granted leave to amend as to certain of his claims.

BACKGROUND

Plaintiff Charles Ramsey brings this civil rights action under 42 U.S.C. § 1983 against defendants City of Rancho Cordova (the "City"), County of Sacramento (the "County"), and

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1 DOES 1–25 stemming from alleged constitutional violations committed by the police during a
2 five-and-a-half-hour detention of plaintiff.¹ In his complaint, plaintiff alleges as follows.

3 At approximately 11:40 p.m. on September 30, 2022, plaintiff was driving home from
4 work and was nearing his residence when multiple gunshots were fired at his vehicle by an
5 unknown assailant. (Doc. No. 1 at 10.) The vehicle sustained three gunshot hits before plaintiff
6 pulled over, about 600 feet from where his vehicle was shot. (*Id.*) Plaintiff retrieved his firearm,
7 which was secured within the trunk of his vehicle. (*Id.*) A neighbor exited her residence, and
8 plaintiff requested she call 911. (*Id.*) The neighbor called 911 and told the operator that plaintiff
9 was armed because he was an active security guard. (*Id.*) Subsequently, plaintiff placed his
10 firearm on the ground and stepped away from it. (*Id.* at 11.) Police arrived at approximately
11 12:10 a.m., and plaintiff signaled to them that he needed help by waving his arms. (*Id.*)
12 However, an officer grabbed plaintiff’s arm and handcuffed him. (*Id.*) Plaintiff remained
13 handcuffed until approximately 1:00 a.m., when he was placed into a patrol vehicle. (*Id.*) While
14 in the police vehicle, plaintiff made requests to use the bathroom but was forced to relieve himself
15 in a water bottle inside the vehicle. (*Id.* at 12.) Plaintiff remained in the vehicle until 5:37 a.m.
16 (*Id.* at 11.) He overheard an officer state, “we are just going to treat him like the shooter.” (*Id.* at
17 12.) After the officers released him, plaintiff’s firearm was seized, despite his explanation of
18 needing it for his job as an armed security guard. (*Id.*) The firearm was not returned to him until
19 a few months later, on December 2, 2022. (*Id.*)

20 On July 17, 2023, plaintiff filed his complaint initiating this action in the Sacramento
21 County Superior Court, which defendants thereafter removed to this federal court on October 2,
22 2023. (Doc. No. 1.) In his complaint, plaintiff asserts the following nine causes of action against
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27 ¹ Plaintiff does not specify in his complaint who DOES 1–25 are, but presumably, he intends for
28 these unnamed defendants to be the “law enforcement officers” whose conduct underpins his
claims. (Doc. No. 1 at 9.)

1 defendants²: (1) violation of 42 U.S.C. § 1983; (2) violation of California Civil Code § 51, the
 2 Unruh Civil Rights Act; (3) violation of the Fourth Amendment to the U.S. Constitution; (4)
 3 violation of the Eighth Amendment to the U.S. Constitution; (5) false imprisonment under
 4 California state law; (6) violation of due process under the Fifth and Fourteenth Amendments to
 5 the U.S. Constitution; (7) violation of Article 1 § 13 of the California Constitution; (8) intentional
 6 infliction of emotional distress; and (9) negligent training and retention. (*Id.* at 8.)

7 On October 24, 2023, defendants filed the pending motion to dismiss plaintiff's
 8 complaint.³ (Doc. No. 7.) On November 7, 2023, plaintiff filed his opposition to the pending
 9 motion, and on November 17, 2023, defendants filed their reply thereto. (Doc. Nos. 8, 12.)

10 **LEGAL STANDARD**

11 The purpose of a motion to dismiss pursuant to Rule 12(b)(6) is to test the legal
 12 sufficiency of the complaint. *N. Star Int'l v. Ariz. Corp. Comm'n*, 720 F.2d 578, 581 (9th Cir.
 13 1983). “Dismissal can be based on the lack of a cognizable legal theory or the absence of
 14 sufficient facts alleged under a cognizable legal theory.” *Balistreri v. Pacifica Police Dep't*, 901
 15 F.2d 696, 699 (9th Cir. 1990). A plaintiff is required to allege “enough facts to state a claim to
 16 relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “A

17 ² Because plaintiff has only named entity defendants, all of his federal constitutional claims—
 18 i.e., his first, third, fourth, and sixth causes of action—are appropriately classified as *Monell*
 19 claims, from the Supreme Court's decision in *Monell v. Department of Social Services of City of*
New York, 436 U.S. 658 (1978).

20 ³ Defendants also move to strike plaintiff's allegations regarding punitive damages under
 21 Rule 12(f) on the grounds that punitive damages are not recoverable against public entities. (Doc.
 22 No. 7-1 at 8.) However, the court notes that “Rule 12(f) does not authorize district courts to strike
 23 claims for damages on the ground that such claims are precluded as a matter of law.”
Whittlestone, Inc. v. Handi-Craft Co., 618 F.3d 970, 974–75 (9th Cir. 2010); *see also Rogers v.*
City of San Francisco, No. 23-cv-04997-JCS, 2024 WL 813444, at *3 (N.D. Cal. Feb. 23, 2024)
 (denying the defendants' request to strike the plaintiffs' request for punitive damages under
 24 Rule 12(f)) (citing *Whittlestone*, 618 F.3d 970). Instead, it appears that a motion to dismiss
 25 brought under Rule 12(b)(6) is the appropriate means by which to challenge a request for
 26 damages, including punitive damages, as barred as a matter of law. *See Gopinath v. SomaLogic, Inc.*, No. 23-cv-01164-W-WVG, 2023 WL 5354776, at *6 (S.D. Cal. Aug. 21, 2023) (adopting
 27 this view and observing that to hold otherwise would leave defendants “with no mechanism to
 28 challenge a [punitive] damage request like the one here since *Whittlestone* held that Rule 12(f)
 cannot be used for this purpose”). Therefore, the court will address defendants' motion to strike
 as part of the motion to dismiss analysis below.

1 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw
 2 the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v.*
 3 *Iqbal*, 556 U.S. 662, 678 (2009).

4 In determining whether a complaint states a claim on which relief may be granted, the
 5 court accepts as true the allegations in the complaint and construes the allegations in the light
 6 most favorable to the plaintiff. *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984). However,
 7 the court need not assume the truth of legal conclusions cast in the form of factual allegations.
 8 *U.S. ex rel. Chunie v. Ringrose*, 788 F.2d 638, 643 n.2 (9th Cir. 1986). While Rule 8(a) does not
 9 require detailed factual allegations, “it demands more than an unadorned, the-defendant-
 10 unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678. A pleading is insufficient if it offers
 11 mere “labels and conclusions” or “a formulaic recitation of the elements of a cause of action.”
 12 *Twombly*, 550 U.S. at 555; *see also Iqbal*, 556 U.S. at 678 (“Threadbare recitals of the elements
 13 of a cause of action, supported by mere conclusory statements, do not suffice.”). Moreover, it is
 14 inappropriate to assume that the plaintiff “can prove facts that it has not alleged or that the
 15 defendants have violated the . . . laws in ways that have not been alleged.” *Associated Gen.*
 16 *Contractors of Cal., Inc. v. Cal. State Council of Carpenters*, 459 U.S. 519, 526 (1983).

17 ANALYSIS

18 A. Federal Claims

19 1. Plaintiff’s Federal Claims Fail

20 To state a claim under § 1983, a plaintiff must allege: “(1) that the conduct complained of
 21 was committed by a person acting under color of state law; and (2) that the conduct deprived the
 22 plaintiff of a constitutional right.” *Balistreri*, 901 F.2d at 699. A plaintiff may bring a § 1983
 23 claim against a person or an entity, including a municipality. 42 U.S.C. § 1983; *Monell*, 436 U.S.
 24 at 694.

25 Here, plaintiff does not identify any individual defendants in his complaint. Instead, he
 26 names only entity defendants, the City and the County. In order for a local government entity like
 27 defendants to be liable under *Monell*, a plaintiff must show “(1) they were deprived of their
 28 constitutional rights by defendants and [defendants’] employees acting under color of state law;

1 (2) that the defendants have customs or policies which ‘amount[] to deliberate indifference’ to
2 their constitutional rights; and (3) that these policies are the ‘moving force behind the
3 constitutional violation[s].’” *Lee v. City of Los Angeles*, 250 F.3d 668, 681–82 (9th Cir. 2001)
4 (quoting *Oviatt v. Pearce*, 954 F.2d 1470, 1477 (9th Cir. 1992)).

5 In their motion to dismiss, defendants argue that plaintiff’s federal claims fail because his
6 “[c]omplaint does not identify any policy, custom or practice by which his Constitutional rights
7 were supposedly violated.” (Doc. No. 7-1 at 4.) The court agrees. In his complaint, plaintiff
8 does not allege facts pertaining to a specific policy, practice, or decision of a municipal official
9 with final decision-making authority that led to the alleged violations of plaintiff’s rights under
10 the Fourth, Fifth, Eighth, or Fourteenth Amendments. *See Koch v. Sacramento Cnty.*, No. 2:23-
11 cv-00701-DB, 2023 WL 8789209, at *2 (E.D. Cal. Dec. 19, 2023) (“The amended complaint does
12 not include facts pertaining to a specific policy, practice, or decision of a municipal official with
13 final decision-making authority that led to the alleged due process deprivation. . . . For these
14 reasons, the amended complaint does not state a due process claim [against the County].”)
15 (internal citations omitted). Furthermore, “[p]roof of random acts or isolated events does not
16 satisfy the plaintiff’s burden to establish a custom or policy.” *Picray v. Sealock*, 138 F.3d 767,
17 772 (9th Cir. 1998) (finding that the plaintiff’s own experience was insufficient to establish a
18 custom or policy); *see also Meehan v. Cnty. of Los Angeles*, 856 F.2d 102, 107 (9th Cir. 1988)
19 (“Proof of unconstitutional assaults by SEB agents on December 21 and March 10, standing
20 alone, does not support a finding of liability against the County.”); *Koch*, 2023 WL 8789209, at
21 *2 (“Allegations about the events occurred solely concerning plaintiff’s case do not establish a
22 custom or policy.”).

23 In his opposition, plaintiff argues that he has alleged in his complaint “prior similar
24 incidents, including a nearly identical situation of misidentifying and mistreating a crime victim.”
25 (Doc. No. 8 at 2) (citing Doc. No. 1 at 11–12, ¶¶ 29–37.) However, as defendants point out in
26 their reply (Doc. No. 12 at 3), paragraphs 29 through 37 of plaintiff’s complaint only discuss the
27 incident that is the subject of this action, not other incidents, (Doc. No. 1 at 11–12, ¶¶ 29–37).

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1 Indeed, plaintiff does not allege a single prior incident to support his conclusory assertion that
 2 defendants had a custom or practice of violating crime victims' constitutional rights.

3 For these reasons, the court will grant defendants' motion to dismiss all of plaintiff's
 4 federal claims, i.e., plaintiff's first, third, fourth, and sixth causes of action. Plaintiff will be
 5 granted leave to amend these claims, except as otherwise noted below.⁴

6 2. Additional Pleading Deficiencies in the Allegations of Constitutional Violations

7 While the court has already found that all of plaintiff's federal claims fail to state a claim
 8 and are subject to dismissal under Rule 12(b)(6) for the reasons explained above, there are
 9 additional pleading deficiencies with regard to several of plaintiff's federal claims that are worth
 10 noting in this order.

11 a. *Plaintiff's Claim of a Violation of 42 U.S.C. § 1983 Is Duplicative*

12 In their motion to dismiss, defendants argue that because plaintiff's first claim for a
 13 violation of 42 U.S.C. § 1983 is not specific as to which constitutional right was allegedly
 14 infringed, it should be dismissed. (Doc. No. 7-1 at 5.) Indeed, "section 1983 'is not itself a
 15 source of substantive rights,' but merely provides 'a method for vindicating federal rights
 16 elsewhere conferred.'" *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (quoting *Baker v. McCollan*,

17 ⁴ In their pending motion, defendants request that the court dismiss plaintiff's complaint in its
 18 entirety, without leave to amend. (Doc. No. 7-1 at 8.) In his opposition, plaintiff did not request
 19 leave to amend his complaint to correct the deficiencies that defendants identified in their motion
 20 to dismiss. Nonetheless, Rule 15(a)(2) of the Federal Rules of Civil Procedure permits courts to
 21 "freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). Plaintiff
 22 originally filed his complaint in state court, and the court is mindful of the different pleading
 23 standards between state and federal courts. It seems plausible that some of plaintiff's federal
 24 claims—i.e., his third and sixth causes of action—could be cured with additional facts alleged,
 25 especially considering that there have been no prior amendments to his complaint. Therefore,
 26 plaintiff will be granted leave to amend those claims. *See Lopez v. Smith*, 203 F.3d 1122, 1127
 27 (9th Cir. 2000) ("[A] district court should grant leave to amend even if no request to amend the
 28 pleading was made, unless it determines that the pleading could not possibly be cured by the
 allegation of other facts.") (citation omitted); *Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1058 (9th Cir. 2011) ("[L]iberality in granting leave to amend is subject to
 several limitations.' Those limitations include undue prejudice to the opposing party, bad faith by
 the movant, futility, and undue delay. Further, '[t]he district court's discretion to deny leave to
 amend is particularly broad where plaintiff has previously amended the complaint.'") (citations
 omitted). However, as discussed below, the court concludes that amendment of plaintiff's first
 and fourth causes of action would be futile and, accordingly, they will thus be dismissed without
 leave to amend.

1 443 U.S. 137, 144 n.3 (1979)); *see also Guerrero v. Cnty. of Alameda*, No. 18-cv-02379-WHA,
 2 2018 WL 4680183, at *3 (N.D. Cal. Sept. 28, 2018) (denying the plaintiff's motion for leave to
 3 assert a claim for an unspecified violation of § 1983).

4 In his complaint, plaintiff alleges that he was subject to an “unreasonably long detention,”
 5 “suffered invidious discrimination,” that the “police unlawfully seized [p]laintiff's firearm,” and
 6 that he was required to “urinate in a bottle in the back of the squad car.” (Doc. No. 1 at 14.)
 7 However, the only constitutional right specifically mentioned in his first cause of action is the
 8 “Due Process [C]lause of the 14th Amendment of the United States Constitution.” (*Id.*) Thus, it
 9 appears that plaintiff's first claim is duplicative of his sixth claim for violation of due process
 10 under the Fifth and Fourteenth Amendments. For this additional reason, plaintiff's first claim for
 11 an unspecified violation of § 1983 will be dismissed, without leave to amend. *See M.M. v.*
 12 *Lafayette Sch. Dist.*, 681 F.3d 1082, 1091 (9th Cir. 2012) (“It is well established that a district
 13 court has broad discretion to control its own docket, and that includes the power to dismiss
 14 duplicative claims.”); *Harmon v. Cnty. of Sacramento*, No. 2:12-cv-02758-TLN, 2016 WL
 15 319232, at *13 (E.D. Cal. Jan. 27, 2016) (dismissing a claim as duplicative, finding no “legal
 16 reason to maintain two causes of action with identical proof requirements and identical relief
 17 available”).

18 b. *Plaintiff's Eighth Amendment Claim Fails as a Matter of Law*

19 In asserting a claim under the Eighth Amendment, plaintiff alleges that the police ignoring
 20 his repeated requests to urinate, and then only allowing him to urinate in a water bottle, violated
 21 the Eighth Amendment's Cruel and Unusual Punishment Clause. (Doc. No. 1 at 16.) Defendants
 22 move to dismiss plaintiff's Eighth Amendment claim, contending that it fails as a matter of law
 23 because plaintiff “does not allege he was subject to punishment, arrest, fines, or that he was
 24 convicted and sentenced at any point in time, nor was he.” (Doc. No. 7-1 at 5.)

25 The Due Process Clause of the Fourteenth Amendment governs the rights of pretrial
 26 detainees, whereas the Cruel and Unusual Punishment Clause of the Eighth Amendment governs
 27 the rights of convicted prisoners. *See Bell v. Wolfish*, 441 U.S. 520, 535 (1979) (“[U]nder the
 28 Due Process Clause, a detainee may not be punished prior to an adjudication of guilt in

1 accordance with due process of law.”); *Glair v. City of Santa Monica*, 649 F. App’x 411, 412 (9th
2 Cir. 2016)⁵ (holding that the district court properly granted summary judgment in favor of the city
3 defendant with respect to the plaintiff’s Eighth Amendment claim because the plaintiff “was not
4 convicted and sentenced for any violation”); *Lee*, 250 F.3d at 686 (stating that the “Eighth
5 Amendment’s prohibition of ‘cruel and unusual punishments’ applies only ‘after conviction and
6 sentence’”) (quoting *Graham v. Connor*, 490 U.S. 386, 393 n.6 (1989)).

7 Because plaintiff neither alleges nor would appear to be able to allege that he was
8 convicted or sentenced with respect to this incident, plaintiff's Eighth Amendment claim will also
9 be dismissed without leave to amend.

10 c. *The Doe Defendants' Identities and Actions Are Insufficiently Pled*

11 The pleading of Doe defendants is disfavored under the Federal Rules of Civil Procedure.
12 See *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980). However, the plaintiff should be
13 given an opportunity through discovery to identify unnamed defendants if their identities were
14 unknown prior to filing the complaint, “unless it is clear that discovery would not uncover the
15 identities, or that the complaint would be dismissed on other grounds.” *Id.*

16 In actions brought pursuant to § 1983, courts must dismiss Doe defendants where the
17 plaintiff fails to make specific allegations as to how those Doe defendants violated the plaintiff's
18 rights. *See Cavanaugh v. Cnty. of San Diego*, No. 3:18-cv-02557-BEN-LL, 2020 WL 6703592,
19 at *25 n.20 (S.D. Cal. Nov. 12, 2020) ("Where a '[p]laintiff fails to link any particular
20 constitutional violation to any specific, individual state actor,' or seeks 'to even minimally
21 explain how any of the unidentified parties he seeks to sue personally caused a violation of his
22 constitutional rights,' the court must dismiss those individuals . . .") (citation omitted).

23 Here, plaintiff's allegations lack specificity in identifying Does 1–25 and what their
24 individual roles were in the alleged acts. Plaintiff merely pleads that “[t]he true names and
25 capacities of Doe [d]efendants named in this [c]omplaint are unknown to [p]laintiff and will be
26 amended as available. Plaintiff will amend this [c]omplaint to allege the true names of each of

⁵ Citation to this unpublished Ninth Circuit opinion is appropriate pursuant to Ninth Circuit Rule 36-3(b).

1 these [d]efendant(s) as soon as [p]laintiff is able to ascertain their true names,” (Doc. No. 1 at 9),
2 and nothing more. While there are implications that these Doe defendants were the “law
3 enforcement officers” whose conduct underpins plaintiff’s claims, (*id.*), plaintiff never expressly
4 so states.

5 Additionally, Rule 8 requires a plaintiff to “plead a short and plain statement of the
6 elements of his or her claim, identifying the transaction or occurrence giving rise to the claim and
7 the elements of the *prima facie* case[.]” *Bautista v. Los Angeles Cnty.*, 216 F.3d 837, 840 (9th
8 Cir. 2000). “When a plaintiff sues multiple defendants, the complaint ‘must allege the basis of
9 his claim against each defendant to satisfy Federal Rule of Civil Procedure 8(a)(2), which
10 requires a short and plain statement of the claim to put defendants on sufficient notice of the
11 allegations against them.’” *Dougherty v. Bank of Am., N.A.*, 177 F. Supp. 3d 1230, 1253 (E.D.
12 Cal. 2016) (citation omitted). Here, plaintiff has not alleged the basis of his claim against any of
13 the Doe defendants, thus failing to satisfy Rule 8(a)(2). *See id.*; Fed. R. Civ. Proc. 8(a)(2).

14 For these reasons, Does 1–25 will be dismissed. Nonetheless, leave to amend in this
15 regard will be granted because it is not clear at this point that amendment would be futile. *See*
16 *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000).

17 **B. Punitive Damages**

18 Under § 1983 and California law, it is clear that public entities are immune from punitive
19 damages. *See City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981) (holding that “a
20 municipality is immune from punitive damages under 42 U.S.C. § 1983”); *Westlands Water Dist.*
21 *v. Amoco Chem. Co.*, 953 F.2d 1109, 1113 (9th Cir. 1992) (“California Government Code § 818
22 bars any award of punitive damages against a public entity.”); Cal. Gov’t Code § 818
23 (“Notwithstanding any other provision of law, a public entity is not liable for damages awarded
24 under Section 3294 of the Civil Code or other damages imposed primarily for the sake of
25 example and by way of punishing the defendant.”). Accordingly, the court will dismiss plaintiff’s
26 request for punitive damages as relief for his claims brought against the City and the County
27 without leave to amend. *See Walker v. McCoud Cnty. Servs. Dist.*, No. 2:16-cv-00061-WBS-
28 CMK, 2016 WL 951635, at *2 (E.D. Cal. Mar. 14, 2016) (dismissing the plaintiff’s request for

1 punitive damages as relief for his claims against the public entity defendant without leave to
2 amend).

3 **C. State Law Claims**

4 “Where all federal claims are dismissed in an action containing both federal and state law
5 claims, a federal court may decline to exercise supplemental jurisdiction over the remaining state
6 law claims.” *Tennyson v. Cnty. of Sacramento*, No. 2:19-cv-00429-KJM-EFB, 2020 WL
7 4059568, at *7 (E.D. Cal. July 20, 2020).

8 Because the court dismisses plaintiff’s federal claims, the court declines to exercise
9 supplemental jurisdiction over plaintiff’s state law claims. Accordingly, plaintiff’s state law
10 claims are dismissed without prejudice to him realleging those claims in any first amended
11 complaint he may elect to file in this action asserting cognizable federal claims.

12 **CONCLUSION**

13 For the reasons explained above,

- 14 1. Defendants’ motion to dismiss (Doc. No. 7) is granted with leave to amend, in
15 part, as follows:
 - 16 a. Plaintiff’s request for punitive damages as relief for his claims brought
17 against the City and the County is dismissed without leave to amend;
 - 18 b. Plaintiff’s first claim is dismissed without leave to amend;
 - 19 c. Plaintiff’s fourth claim is dismissed without leave to amend;
 - 20 d. Plaintiff’s remaining claims are dismissed with leave to amend;
- 21 2. Does 1–25 are dismissed from this action with leave to amend;
- 22 3. Any first amended complaint that plaintiff may elect to file in this action shall be
23 filed within twenty-one (21) days after the date of entry of this order; and

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1 4. If plaintiff elects not to file a first amended complaint, then he shall file a notice of
2 his intent not to file a first amended complaint by no later than twenty-one (21)
3 days after the date of entry of this order.

4 IT IS SO ORDERED.

5 Dated: May 13, 2024

Dale A. Drozd
6 DALE A. DROZD
7 UNITED STATES DISTRICT JUDGE

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